

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Case No.: 1:19-CR-00018-ABJ

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROGER J. STONE, JR.,

Defendant.

_____ /

**MOTION FOR AN ORDER PERMITTING DEFENDANT ROGER J. STONE
TO ISSUE EARLY RETURN SUBPOENA *DUCES TECUM*
TO CROWDSTRIKE HOLDINGS, INC., CROWDSTRIKE SERVICES, INC.,
AND CROWDSTRIKE, INC.,
PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 17(c)**

Defendant, Roger J. Stone, Jr., files this Motion for an Order permitting him to issue subpoenas *duces tecum* for the early return of documents to CrowdStrike Holdings, Inc., CrowdStrike Services, Inc., and CrowdStrike, Inc. The attached subpoenas *duces tecum* seek the unredacted CrowdStrike Reports, and any other reports, that were the result of CrowdStrike's investigation into the hacking, theft and dissemination of DNC and DCCC data.

The Government provided three redacted reports pursuant to Federal Rule of Criminal Procedure 16, however, the defense believes the unredacted copies likely contain evidence that is material to the Defendant's innocence. Since the Government has represented that it does not have the unredacted reports, a Rule 17 subpoena is the appropriate.

Rule 17(c) provides, in relevant part:

Producing Documents and Objects.

(1) In General. A subpoena may order the witness to produce any books, papers, documents, data, or other objects the subpoena designates. The court may direct the witness to produce the designated items in court before trial or before they are to be offered in evidence.

The unredacted CrowdStrike Reports are necessary to prove the materiality provision of the perjury counts against the Defendant and counsel cannot proceed without the production in advance of the trial. This Motion is made in good faith.

Roger Stone respectfully requests that the Court grant his Motion and direct the Clerk of Court to issue the attached subpoenas.

Respectfully submitted,

By: /s/_____

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Admitted pro hac vice

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Tele: (954) 235-8259
routmanc@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 31, 2019 I electronically filed the foregoing with the Clerk of Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record or pro se parties, via transmission of Notices of Electronic Filing generated by CM/ECF.

BUSCHEL GIBBONS, P.A.

/s/
Robert Buschel

*United States Attorney's Office for the
District of Columbia*

Jessie K. Liu
United States Attorney
Jonathan Kravis
Michael J. Marando
Assistant United States Attorneys
Adam C. Jed
Aaron S.J. Zelinsky
Special Assistant United States Attorneys
555 Fourth Street, NW
Washington, DC 20530
Telephone: (202) 252-6886
Fax: (202) 651-3393

UNITED STATES DISTRICT COURT
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United States of America)	
<i>Plaintiff</i>)	
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Roger J. Stone)	
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OR TO PERMIT INSPECTION OF PREMISES**

To: **CROWDSTRIKE HOLDINGS, INC.**
c/o George Kurtz
President and CEO
CrowdStrike Holdings, Inc.
150 Mathilda Place, Suite 300
Sunnyvale, California 94086
(888) 512-8906

To: **CROWDSTRIKE HOLDINGS, INC.**
c/o CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833
(800) 927-9800

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- . All unredacted copies, drafts and final reports of CrowdStrike:
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DRAFT Incident Investigation Report DCCC
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Place: Bruce S. Rogow, P.A. 100 N.E. Third Avenue, Suite 1000 Fort Lauderdale, FL 33301 (954) 767-8909	Date and Time: 20 days after day of service
---	---

Date: _____

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (*name of party*) Roger J. Stone, who issues or requests this subpoena, are: Bruce S. Rogow, Tara A. Campion, Bruce S. Rogow, P.A., 100 N.E. Third Avenue, Suite 1000, Fort Lauderdale, FL 33301; (954) 767-8909; brogow@rogowlaw.com; tcampion@rogowlaw.com.

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_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

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Add Attachment

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(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's

study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Case No.: 1:19-CR-00018-ABJ

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROGER J. STONE, JR.,

Defendant.

_____ /

ORDER

Before the Court is Roger J. Stone's Motion for an Order permitting him to issue a subpoena *duces tecum* for the early return of documents to the United States House of Representatives, pursuant to Federal Rule of Criminal Procedure 17(c). The Court, having reviewed the Motion and otherwise being fully advised

IT IS ORDERED AND ADJUGED that the Defendant's Motion for issuance of a subpoena *duces tecum* is hereby GRANTED. The Clerk of Court is Ordered to issue the Subpoena as drafted.

DONE AND ORDERED in Washington, DC, this ____ day of ____, 2019.

AMY BERMAN JACKSON
United States District Judge

cc: all counsel of record